EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2008-0312-MLM-E **TCEQ ID:** RN105170518 **CASE NO.:** 35417

RESPONDENT NAME: Near Bore Resources, Inc.

ORDER TYPE:		
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	_EMERGENCY ORDER	
CASE TYPE:		
AIR	XMULTI-MEDIA (check all that apply)	X INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
X_MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Pyrolysis plant SMALL BUSINESS: X Yes OTHER SIGNIFICANT MATTERS: A cotire facility. There is no record of additional INTERESTED PARTIES: A complaint was Agenda. COMMENTS RECEIVED: The Texas Reg CONTACTS AND MAILING LIST:	emplaint was received on September 12, 2007, alleging pending enforcement actions regarding this facility is received, but the complainant has not expressed a consister comment period expired on August 18, 2008.	ng that the Facility was an unauthorized scrap ocation. desire to protest this action or to speak at
TCEQ Attorney/SEP Coordinator TCEQ Enforcement Coordinator Bryan Sinclair, Enforcement Divisi Respondent: Mr. Michael House, I Mr. J. E. Lowden, President, Near I	: Mr. Ross Fife, Enforcement Division, Enforcemen	228, New London, Texas 75682

RESPONDENT NAME: Near Bore Resources, Inc.

DOCKET NO.: 2008-0312-MLM-E

VIOLATION SUMMARY CHART: CORRECTIVE ACTIONS PENALTY CONSIDERATIONS VIOLATION INFORMATION TAKEN/REQUIRED Ordering Provisions: Total Assessed: \$26,000 Type of Investigation: X Complaint The Order will require the Respondent to: Total Deferred: \$5,200 Routine X Expedited Settlement Enforcement Follow-up a. Immediately upon the effective date of Records Review this Agreed Order: __Financial Inability to Pay Date(s) of Complaints Relating to this i. Cease the receipt of used or scrap tires or SEP Conditional Offset: \$0 Case: September 12, 2007 tire pieces at the Facility until properly authorized: Total Paid to General Revenue: \$20,800 Date of Investigation Relating to this Case: September 25 and October 2, 2007 ii. Cease the processing, energy recovery, Site Compliance History Classification and/or recycling of used or scrap tires or ___ High __X Average ___ Poor Date of NOV/NOE Relating to this Case: tire pieces at the Facility until properly January 9, 2008 (NOE) authorized; Person Compliance History Classification __ High X Average __ Poor Background Facts: This was a complaint b. Within 30 days after the effective date investigation. of this Agreed Order: Major Source: ___ Yes _X_ No WASTE i. Obtain a scrap tire storage registration Major Source: X Yes No from the TCEQ or remove the tire pieces 1) Failure to obtain a scrap tire storage site to an authorized facility; Applicable Penalty Policy: September 2002 registration before storing more than 500 used or scrap tires (or weight equivalent ii. If processing, energy recovery, and/or tire pieces or any combination thereof) on recycling of used or scrap tires or tire the ground or 2,000 used or scrap tires (or pieces is to be continued, obtain a scrap weight equivalent tire pieces or any tire facility registration for these activities; combination thereof) in enclosed and lockable containers. Specifically, it was iii. Ensure that hazardous waste documented that 63,440 pounds of scrap determinations are performed for the waste tire pieces, that by weight equate to generated at the Facility, including offapproximately 3,172 scrap tires, were specification pyrolic oil, off-specification being stored at the Facility [30 TEX. Low Grade Carbon Black, spent oil shale ADMIN. CODE § 328.60(a)]. and oil sand, spent filters from process equipment, drums of rubber (carbon black 2) Failure to obtain a scrap tire facility and steel residue from the pyrolysis registration for the processing, energy process), and drums of rocks and carbon recovery, and/or recycling of scrap tires or black (residue from the removal of carbon tire pieces. Specifically, the Respondent build-up inside the carbonizer); was processing, recycling, and recovering energy from tire pieces at the Facility iv. Notify the TCEQ as an industrial waste without a registration [30 Tex. ADMIN. generator; and CODE § 328.63(c)]. c. Within 45 days after the effective date of 3) Failure to perform hazardous waste this Agreed Order, submit written determinations on waste generated at the certification and include detailed Facility. Specifically, for various waste supporting documentation including generated at the Facility, hazardous waste photographs, receipts, and/or other records determinations had not been conducted. to demonstrate compliance with Ordering This waste included off-specification Provisions a. through b.iv. pyrolic oil, off-specification Low Grade Carbon Black, spent oil shale and oil sand, spent filters from process equipment, drums of rubber (carbon black and steel

residue from the pyrolysis process), and

RESPONDENT NAME: Near Bore Resources, Inc. DOCKET NO.: 2008-0312-MLM-E

Page 3 of 3

drums of rocks and carbon black (residue from the removal of carbon build-up inside the carbonizer) [30 Tex. ADMIN. CODE §§ 335.62 and 335.78(g)(1) and 40 CODE OF FEDERAL REGULATIONS § 262.11(a)].	
4) Failure to notify the Executive Director as a generator of industrial waste. Specifically, it was observed that a bulk of the waste generated at the Facility was industrial waste [30 Tex. Admin. Code § 335.6(c)].	

Additional ID No(s).: Industrial and Hazardous Waste Generation Site ID No. F1998

	Policy Revision 2 (Se	Penalty Calculatio	n Works	sheet (P	CW)	lanuary 29, 2008
TCEG						
DATE	S Assigned PCW		EPA Due		A MANA TO A CONTRACTOR SERVICE AND	en de la companya de
RESP	ONDENT/FACILIT	YINFORMATION				
		Near Bore Resources, Inc.				7
	Reg. Ent. Ref. No] :
F	acility/Site Region	5-Tyler	Major/	Minor Source	Major	
CASE	INFORMATION					
CASE	Enf./Case ID No	35417	l No.	of Violations	2	- i
		. 2008-0312-MLM-E	110.	Order Type		-
	Media Program(s)	Municipal Solid Waste	Enf	. Coordinator		
		Industrial and Hazardous Waste		EC's Team	Enforcement Team 7	
	Admin. Penalty \$	Limit Minimum \$0 Maximum	\$10,000	an accompany and a superior su	terretation	S. S
						
		Penalty Calcula	ition Sec	tion		
TOTA	AL BASE PENA	LTY (Sum of violation base penaltie	s)		Subtotal 1	\$10,000
	*		•			
ADJU	JSTMENTS (+/-)	TO SUBTOTAL 1		14 e		C. Williams
	Subtotals 2-7 are obta	ined by multiplying the Total Base Penalty (Subtotal 1) by			-4-1-0 2 2 7	¢o.
	Compliance hist	ory U%	Enhancement	Subte	otals 2, 3, & 7	\$0
	Notes	No change due to Average Perfor	mer classificat	tion.		7
		0 0				And Charle
	Culpability	No 0%	-au-contractive		0	60
	Culpability	110	Enhancement		Subtotal 4	\$0
	Notes	The Respondent does not meet the	culpability cri	teria.		A Characteristic Co.
			· · · · · · · · · · · · · · · · · · ·			All and a second
	Good Faith Effor	t to Comply 0%	Reduction		Subtotal 5	\$0
		Before NOV NOV to EDPRP/Settlement Offer				•
	Extraordinary					1000
	Ordinary N/A					
	N/A	X (mark with x)		•		to confirm to
	Notes	The Respondent does not meet the	good faith cri	teria.		E. min see of
						der melber ob
			Enhancement*	See The Call	Subtotal 6	\$0
	Approx	Total EB Amounts \$805 *Capped Cost of Compliance \$15,000	at the Total EB\$	Amount		
	/ ippi ox.	9051 07 0 0 11 pilatino				mane's ancidance
SUM	OF SUBTOTAL	S 1-7		F	inal Subtotal	\$10,000
		S JUSTICE MAY REQUIRE	0%		Adjustment	\$0
Reduces	or enhances the Final S	Subtotal by the indicated percentage.		·		
	Notes					***************************************
	Notes					20 ton may
				Final Per	nalty Amount	\$10,000
				i mar i ei	laity Amount	\$10,000
STAT	UTORY LIMIT A	ADJUSTMENT		Final Asse.	ssed Penalty	\$10,000
	RRAL		20%	Reduction	Adjustment	-\$2,000
Reduces	the Final Assessed Per	alty by the indicted percentage. (Enter number only; e.g.	. 20 for 20% redu	ction.)	· · · · · · · · · · · · · · · · · · ·	
	NI	Defended offered for	1 441			
	Notes	Deferral offered for expedited	ı seπiement.			
PAYA	ABLE PENALTY					\$8,000

Screening Date 7-Feb-2008

Docket No. 2008-0312-MLM-E

PCW

Respondent Near Bore Resources, Inc.

Policy Revision 2 (September 2002) PCW Revision January 29, 2008

Adjust.

0%

0%

0%

Enter Number Here

0

0

0

Case ID No. 35417

Reg. Ent. Reference No. RN105170518

Media [Statute] Municipal Solid Waste

Other written NOVs

(number of NOVs meeting criteria)

Enf. Coordinator Dana Shuler

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of...

NOVs

Compliance History Worksheet

Written NOVs with same or similar violations as those in the current enforcement action

Any agreed final enforcement orders containing a denial of liability (number of orders

	meeting criteria.)		
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a der of liability, or default orders of this state or the federal government, or any final prohibit emergency orders issued by the commission	nial tory 0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liab of this state or the federal government (number of judgements or consent decrees meet criteria)	ility iing 0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final conjudgments or consent decrees without a denial of liability, of this state or the federal government	ourt eral 0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Te Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number audits for which notices were submitted)	r of 0	0%
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilendant, 74th Legislature, 1995 (number of audits for which violations were disclosed)	ege 0	0%
L		Please Enter Yes or No)
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director unde special assistance program	era No	0%
Other	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal governmential requirements	nent No	0%
epeat Violator (S		nt Percentage (S	Subtotal 2)
N	Adjustmer Adjustmer	nt Percentage (S	Subtotal 3) [
	ry Person Classification (Subtotal 7)		
omphance misto		nt Percentage (S	Subtotal 7)
Average	Performer Adjustmen		
-			-
Average	ry Summary		

Screening Dat	e 7-Feb-2008	Docket No. 2008-0312-MLM-E	PCW
•	nt Near Bore Resources, Inc	Policy	Revision 2 (September 2002)
Case ID No		PC	W Revision January 29, 2008
Reg. Ent. Reference No			
-	Municipal Solid Waste		
Enf. Coordinate Violation Number	P		
	 		7
Rule Cite(s)	30 Tex. Admin. Code § 328.60(a)	
Violation Description	or scrap tires (or weigh ground or 2,000 used or s thereof) in enclosed and conducted on September 63,440 pounds of scrap ti	re storage site registration before storing more than 500 used to equivalent tire pieces or any combination thereof) on the crap tires (or weight equivalent tire pieces or any combination lockable containers, as documented during an investigation 25 and October 2, 2007. Specifically, it was documented that re pieces, that by weight equate to approximately 3,172 scrapers, were being stored at the Facility.	n t
		Base Penalt	y \$10,000
>> Environmental, Property	and Human Health Ma	atrix	THE PARTY AND TH
	Harm		
Releas		Minor	a parameter
OR Actu Potenti		Percent 0%	
7 Otoria			
>>Programmatic Matrix			
Falsificatio	n Major Moderate	Minor	
	x	Percent 25%	
Matrix Notes	100% of th	ne rule requirement was not met.	
		Adjustment \$7,50	ō
thal things of a true and the property of the same of		HECCLEARERY VOLLECTER AND REPORTED PROPERTY AND	£2.500
			\$2,500
Violation Events			
Number of \	/iolation Events 2	135 Number of violation days	
mark only on with an x	daily monthly quarterly x semiannual single event	Violation Base Penalt	y \$5,000
Two qua		ded from the September 25, 2007 investigation date to the lary 7, 2008 screening date.	
Economic Benefit (EB) for t	his violation	Statutory Limit Test	
Estimat	ed EB Amount	\$268 Violation Final Penalty Total	al \$5,000
		This violation Final Assessed Penalty (adjusted for limits	\$5,000

	E	conomic E	3enefit W	orks	heet		
Respondent Case ID No.		ources, Inc.					
Reg. Ent. Reference No. Media	RN105170518 Municipal Solid	Waste				Percent Interest	Years of
Violation No.	1					T Groent intelest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	· :					
Delayed Costs	giliya gas kiri	aris (Bardi A)	vija se pri se stri se,				
Equipment				0.0	\$0	\$0	\$0
Buildings		- 1 L N		0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a-	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$5,000	25-Sep-2007	21-Oct-2008	1.1	\$268	n/a	\$268
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs			Date is the exp	ected da	ate of compliance.	is the investigation	
Avoided Costs	ANN	UALIZE [1] avoide	ed costs before			one-time avoided o	
Disposal				0.0	\$0.	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			**************************************	0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)		<u> </u>		0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$5,000			TOTAL		\$268

PCW	ng Date 7-Feb-2008 Docket No. 2008-0312-MLM-E	•	
ision 2 (September 200			
evision January 29, 20			_
		. Ent. Reference No.	Reg.
	Statute] Municipal Solid Waste		
	dinator Dana Shuler		
		Violation Number Rule Cite(s)	
	30 Tex. Admin. Code § 328.63(c)	Rule Cite(s)	
	Failed to obtain a scrap tire facility registration for the processing, energy recovery, and/or recycling of scrap tires or tire pieces, as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, the Respondent was processing, recycling, and recovering energy from tire pieces at the Facility without a registration.	Violation Description	
\$10,0	Base Penalty		
	perty and Human Health Matrix	onmental, Property a	> Enviror
	Harm Release Major Moderate Minor	Release	
	Actual		OR
	Potential Percent 0%	Potential	S. Kyri
	(ACC) NOTO TO DOS ACCIONOS (LABOR 1990 ACCIO ACCIONADA PARA ACCION	skungstali in tan sekaggi Menangstali ing sekara sekara	Maria des
		ımmatic Matrix	Program
		Falsification	A CAMPA
	X Percent 25%	<u> </u>	
	100% of the rule requirement was not met.	Matrix Notes	
	Adjustment \$7,500	and the state of the property of the state o	Projete (Sa) V
\$2,50			
		Events	iolation E
	per of Violation Events 2 135 Number of violation days	Number of Vic	
	daily		
	monthly		
\$5,00		mark only one with an x	
	h an x semiannual annual annual	mor air x	
	single event		
	wo quarterly events are recommended from the September 25, 2007 investigation date to the	Two quar	
	February 7, 2008 screening date.		
	for this violation Statutory Limit Test	s Benefit (EB) for thi	conomic

go go an ann an	E	conomic	Benefit W	orks	sheet		
Respondent		urces, Inc.					
Case ID No.		•					
Reg. Ent. Reference No.							Years of
Media	Municipal Solid '	Waste				Percent Interest	Depreciation
Violation No.	2					1	•
						5.0	15
Anger a comme	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	erak arjal di bibasa	er i ar 1944 safet Nobel a				
Delayed Costs	and the same	الموادية المنطور الأس	And the state of t	—	\$0	\$0	\$0
Equipment	la la	منجب خضيني		0.0	\$0 \$0	\$0	\$0
Buildings			ļ	0.0	\$0	\$0	\$0
Other (as needed)			<u> </u>	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	n/a	\$0
Land			-	0.0	\$0	n/a	\$0
Record Keeping System			<u> </u>	0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$10,000	25-Sep-2007	21-Oct-2008	1.1	\$537	n/a	\$537
Permit Costs Other (as needed)	\$10,000	20-360-2007	- 21 OOL 2000	0.0	\$0	n/a	\$0
Notes for DELAYED costs			expecte	d date of	compliance.	stigation date and Fi	
Avoided Costs	ANN	IUALIZE [1] avoi	ded costs before	entering	j item (except for	one-time avoided	costs)
Disposal				0.0	\$0	\$0	\$0.
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0 \$0
Supplies/equipment			in the service of the service of the	0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0 \$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0 \$0	\$0	\$0
Other (as needed)		1		0.0	1 20	1 40	
Notes for AVOIDED costs			·				
Approx. Cost of Compliance		\$10,00	00		TOTA	L	\$537

	Penalty Calcu	lation Work	sheet (P	•	
Policy Revision 2 (Sept	tember 2002)			PCW Revision .	January 29, 2008
DATES Assigned	14-Jan-2008				
PCW	12-Mar-2008 Screening 7-Feb	-2008 EPA Du	е		
	W-05W-76W				
RESPONDENT/FACILITY	Near Bore Resources, Inc.				
Reg. Ent. Ref. No.	RN105170518				
Facility/Site Region		Majo	r/Minor Source	Minor	
OVOE INCODE/ATION			575 P. (1885 P. 1885 P		
CASE INFORMATION Enf./Case ID No.	35417	No.	o. of Violations	2	Till YHLLEN
	2008-0312-MLM-E		Order Type		
	Industrial and Hazardous Waste	Er	nf. Coordinator		
	Municipal Solid Waste -imit Minimum \$0 Maxim	um \$10,000	EC's Team	Enforcement Team 7	
Admin. Penalty \$ L	imit Minimum \$0 Maxim	um \$10,000		***************************************	•
	Penalty Ca	alculation Se	ction	40.70	
TOTAL BASE PENAL	TY (Sum of violation base p	enalties)		Subtotal 1	\$16,000
The state of the s					
ADJUSTMENTS (+/-)	TO SUBTOTAL 1 ned by multiplying the Total Base Penalty (Sub	total 1) by the indicated n	ercentage		
Compliance Histo	and can be a first a real and a first of the contract of the c	0% Enhancemen		otals 2, 3, & 7	\$0
•					
Notes	No change due to Average	e Performer classific	ation.		-
l					
Culpability	No	0% Enhancemen	t .	Subtotal 4	\$0
Notes	The Respondent does not	meet the culpability	criteria.		
110100		,			
Good Faith Effort	to Comply	0% Reduction		Subtotal 5	\$0
Ood alai Enois	Before NOV NOV to EDPRP/Settlem				
Extraordinary					
Ordinary N/A	(d				
IN/A	X (mark with x)			1	
Notes	The Respondent does not i	meet the good faith	criteria.		
				J	
	Total EB Amounts \$34	0% Enhancement* *Capped at the Total EE		Subtotal 6	\$0
Approx. (Total EB Amounts \$34 Cost of Compliance \$1,100	Capped at the Total EL	φAmount		:
					646,000
SUM OF SUBTOTALS	S 1-7.		ı	Final Subtotal	\$16,000
OTHER EXCTORS AS	S JUSTICE MAY REQUIRE	0%	<u> </u>	Adjustment	\$0
	ubtotal by the indicated percentage.		<u> </u>	Adjustinent	
				·	
Notes					
			Final Pa	nalty Amount	\$16,000
			, mar r c	indity Amount	+.0,000
STATUTORY LIMIT A	DJUSTMENT		Final Asse	essed Penalty	\$16,000
DEFERRAL		20%		Adjustment	-\$3,200
Reduces the Final Assessed Pen	alty by the indicted percentage. (Enter numbe	r only; e.g. 20 for 20% re	auction.)	1	
Notes	Deferral offered for e	expedited settlement			
	22.2 3113.34 101 2	,	•		
DAVABLE DEMALTY		ng kalundang dan Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kabupatèn Kab	unangan paranging Palatai (ang	13948882 1311F103980 (\$1 <mark>2</mark>	\$12,800

Screening Date 7-Feb-2008

Docket No. 2008-0312-MLM-E

PCW

Policy Revision 2 (September 2002) PCW Revision January 29, 2008

Respondent Near Bore Resources, Inc.

Case ID No. 35417

Reg. Ent. Reference No. RN105170518

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Compliance History Worksheet

Component	/ Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0.0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	9	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	30 ASS 00 A	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
, addite	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	O	0%
L	Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Other	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment F	Percentage (S	ubtotal 2)
at Violator (Su	ibtotal 3)		
No	Adjustment F	Percentage (S	ubtotal 3)
liance History	y Person Classification (Subtotal 7)		
Average P	Performer Adjustment F	Percentage (S	ubtotal 7)
oliance History	y Summany		San Carlos (San Francis
Compliance History Notes	No change due to Average Performer classification.		
	Total Adjustment Percentage		

Screening Date	7-Feb-2008 Docket No. 2008-0312-MLM-E	PCW
Respondent	Near Bore Resources, Inc.	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision January 29, 2008
Reg. Ent. Reference No.		vocation in the second
	Industrial and Hazardous Waste	· marini
Enf. Coordinator		
Violation Number		· ·
Rule Cite(s)	30 Tex. Admin. Code §§ 335.62 and 335.78(g)(1) and 40 Code of Federal R § 262.11(a)	egulations
Violation Description	Failed to perform hazardous waste determinations on waste generated at the as documented during an investigation conducted on September 25 and O 2007. Specifically, for various waste generated at the Facility, hazardous determinations had not been conducted. This waste included off-specificatioil, off-specification Low Grade Carbon Black, spent oil shale and oil sand, s from process equipment, drums of rubber (carbon black and steel residue pyrolysis process), and drums of rocks and carbon black (residue from the rearbon build-up inside the carbonizer).	ctober 2, swaste on pyrolic pent filters from the
	Ba	se Penalty \$10,000
>> Environmental, Property a	nd Human Health Matrix	
	Harm	Control of the Contro
Release OR Actual	Major Moderate Minor	· · · · · · · · · · · · · · · · · · ·
Potential	x Percent 25%	The second secon
· otomaa-[/	**************************************
>>Programmatic Matrix	AND THE STATE OF T	
Falsification	Major Moderate Minor	average .
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Percent 0%	
		
	th or the environment could be exposed to pollutants which would exceed lev	
Notes are pr	otective of human health or environmental receptors as a result of this violati	ο ņ.
	Adjustment	\$7,500
		\$2,500
		ψ2,500
Violation Events		
Number of Vio	lation Events 6 135 Number of violation da	ys
· .		AMANAMAN
	daily monthly	VIVITAMAN
mark only one	quarterly Violation Bas	se Penalty \$15,000
with an x	semiannual	7 L
	annual	
	single event x	WANAGARITAN
		
	Six single events are recommended (one event per waste stream).	NAME OF THE PROPERTY OF THE PR
Economic Benefit (EB) for thi	s violation Statutory Limit Te	st
Estimated	EB Amount \$32 Violation Final Per	nalty Total \$15,000
	This violation Final Assessed Penalty (adjusted	for limits) \$15,000

Respondent	Near Bore Res	ources, Inc.					
Case ID No.							
Reg. Ent. Reference No.	RN105170518						
Media (Industrial and F	lazardous Waste				Percent Interest	Years of Depreciation
Violation No.	. 1 			Market (1)		5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
		Date Kequireu	r mai Date	113	micrest Gutes	•	
Item Description	No commas or a						desperal field at a country
Delayed Costs							
Equipment				0:0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)			area de la companya	0.0	\$0	\$0	\$0
Engineering/construction	Francisco La Propinsi	any flaviore, story symmetric		0.0	\$0	\$0	\$0
Land	Golden Heilen Alaka Saksa		terrar a tirrana ca	0.0	\$0	n/a	\$0
Record Keeping System		VIII maka tahun territolia	Arrest de l'épondéral	0.0	\$0	n/a	\$0
Training/Sampling			with the strange	0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
	\$600	25-Sep-2007	21-Oct-2008	11	\$32	n/a	\$32
Other (as needed)				ninations	on waste at the F	acility. Date Require	ed is the date of
Other (as needed) Notes for DELAYED costs	Estimated cos	st to conduct hazard the investi	dous waste detern gation and Final D	ate is th	e expected date o		
	Estimated cos	st to conduct hazard the investi	dous waste detern gation and Final D	ate is th	e expected date o item (except for	f compliance.	costs)
Notes for DELAYED costs	Estimated cos	st to conduct hazard the investi	dous waste detern gation and Final D	ate is the	e expected date of the litem (except for \$0	f compliance. one-time avoided of \$0	costs) \$0
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	Date 7-Feb-2008 Docket No. 2008-0312-MLM-E	PCW
		Revision 2 (September 2002)
		W Revision January 29, 2008
Reg. Ent. Reference		
	tute] Industrial and Hazardous Waste ator Dana Shuler	
Violation Nu		
Rule Ci	ita(s)	7
	30 Tex. Admin. Code § 335.6(c)	
Violation Descrip	Failed to notify the Executive Director as a generator of industrial waste, as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, i was observed that a bulk of the waste generated at the Facility were industrial waste.	1 t
	Base Penalty	\$10,000
>> Environmental, Prope	rty and Human Health Matrix	
Reli	Harm ease Major Moderate Minor	
	ctual	
Pote	ential Percent 0%	
>>Programmatic Matrix		
Falsifica	ation Major Moderate Minor	
	X Percent 10%	
		an .
Matrix Notes	100% of the rule requirement was not met.	
	Adjustment \$9,000	<u> </u>
	· Cjostion	
		\$1,000
Violation Events		
		**
Number o	of Violation Events 1 135 Number of violation days	
mark only with an		\$1,000
	single event x	
	One simple around in recommended	
	One single event is recommended.	
Economic Benefit (EB) fo	r this violation Statutory Limit Test	
Estim	nated EB Amount \$2 Violation Final Penalty Total	\$1,000
	This violation Final Assessed Penalty (adjusted for limits)	\$1,000
	The French of Mills	\$7,000

	E	conomic I	3enefit W	orks	heet		
Respondent	Near Bore Res	ources, Inc.	886.00000000000000000000000000000000000		man and a second		
Case ID No.							
Reg. Ent. Reference No.	DN106170618						
		lazardous Waste					Years of
		lazardous vvasie				Percent Interest	Depreciation
Violation No.	(2 Indonestrator de la la la casa	Sakanskapsyskapska P.CM	MARE OLIGICA EL VIÁZABORS	9848888658		1	Strike and the strike appealing to the second
						5.0	15
place parameter	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
7. AA.	30.000						
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	are en 1975 - 1975		aran est we part !	0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	. \$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal		perference extent of the		0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0 \$2
041 ((CEOO						
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Compliance History

Custom	er/Respondent/Owner-Operator:	CN603156449	Near Bore Resources, LF	•	Classification:	AVERAGE	Rating: 3.01
Regulat	ed Entity:	RN105170518	NEAR BORE RESOURC CARBONATOR RECLAN FACILITY		Classification: DEFAULT	AVERAGE BY	Site Rating: 3.01
ID Numl	per(s):	STORMWATER INDUSTRIAL AN GENERATION	D HAZARDOUS WASTE	PERMIT ID NUMBER		**************************************	TXR15EW91 F1998
Location	:		23 W, NEW LONDON, TX,	75684	Rating Date: S	September 01 0	7 Repeat Violator: N
TCEQ R	degion:	REGION 05 - TYL	ER				
Date Co	mpliance History Prepared:	February 07, 2008	}				
Agency	Decision Requiring Compliance History:	Enforcement					
Complia	nce Period:	February 07, 2003	to February 07, 2008				
TCEQ S Name:	taff Member to Contact for Additional Info	rmation Regarding th	•				
			ompliance History Com	ponents			
	ne site been in existence and/or operation			Yes			
	ere been a (known) change in ownership who is the current owner?	of the site during the	compliance period?	No			
	, who was/were the prior owner(s)?		N/A				
5. When	did the change(s) in ownership occur?			N/A			
	nents (Multimedia) for the Site :			<u>N/A</u>			
Α.	Final Enforcement Orders, court judgen	nents, and consent d	ecrees of the state of Texas	and the federal g	overnment.	·	
В.	Any criminal convictions of the state of N/A	Texas and the federa	ıl government.				
C.	Chronic excessive emissions events.						
	N/A						
D.	The approval dates of investigations. (C	CEDS Inv. Track, No	o.)				
	N/A						
E.	Written notices of violations (NOV). (CC	EDS Inv. Track. No.;)				
F.	Environmental audits. N/A						
G.	Type of environmental management sys	tems (EMSs).					
	N/A						
Н.	Voluntary on-site compliance assessme	nt dates.					
	N/A						
l.	Participation in a voluntary pollution redu	uction program.	•				
	N/A						
J.	Early compliance.						
Sitae Out	N/A side of Texas						
onos Out	SIGO OF FORMS						

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
NEAR BORE RESOURCES, INC.	§	
RN105170518	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0312-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Near Bore Resources, Inc. ("the Respondent") under the authority of Tex. Health & Safety Code ch. 361 and Tex. Water Code ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a pyrolysis plant at 8932 Highway 323 West in New London, Rusk County, Texas (the "Facility").
- 2. The Facility involves or involved the management of municipal solid waste and industrial solid waste as defined in TEX, HEALTH & SAFETY CODE ch. 361.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 14, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Twenty-Six Thousand Dollars (\$26,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty Thousand Eight Hundred Dollars (\$20,800) of the administrative

penalty and Five Thousand Two Hundred Dollars (\$5,200) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to obtain a scrap tire storage site registration before storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers, in violation of 30 Tex. ADMIN. CODE § 328.60(a), as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, it was documented that 63,440 pounds of scrap tire pieces, that by weight equate to approximately 3,172 scrap tires, were being stored at the Facility.
- 2. Failed to obtain a scrap tire facility registration for the processing, energy recovery, and/or recycling of scrap tires or tire pieces, in violation of 30 Tex. ADMIN. CODE § 328.63(c), as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, the Respondent was processing, recycling, and recovering energy from tire pieces at the Facility without a registration.
- 3. Failed to perform hazardous waste determinations on waste generated at the Facility, in violation of 30 Tex. ADMIN. CODE §§ 335.62 and 335.78(g)(1) and 40 CODE OF FEDERAL REGULATIONS § 262.11(a), as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, for various waste generated at the Facility, hazardous waste determinations had not been conducted. This waste included off-specification pyrolic oil, off-specification Low Grade Carbon Black, spent oil shale and oil sand, spent filters from process equipment, drums of

Near Bore Resources, Inc. DOCKET NO. 2008-0312-MLM-E Page 3

rubber (carbon black and steel residue from the pyrolysis process), and drums of rocks and carbon black (residue from the removal of carbon build-up inside the carbonizer).

4. Failed to notify the Executive Director as a generator of industrial waste, as documented during an investigation conducted on September 25 and October 2, 2007. Specifically, it was observed that a bulk of the waste generated at the Facility was industrial waste, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on October 2, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Near Bore Resources, Inc., Docket No. 2008-0312-MLM-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease the receipt of used or scrap tires or tire pieces at the Facility until properly authorized, in accordance with 30 Tex. ADMIN. CODE § 328.60(a);
 - ii. Cease the processing, energy recovery, and/or recycling of used or scrap tires or tire pieces at the Facility until properly authorized, in accordance with 30 TEX. ADMIN. CODE § 328.63(c);
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Obtain a scrap tire storage registration from the TCEQ or remove the tire pieces to an authorized facility, in accordance with 30 Tex. ADMIN. CODE § 328.60(a);
 - ii. If processing, energy recovery, and/or recycling of used or scrap tires or tire pieces is to be continued, obtain a scrap tire facility registration for these activities, in accordance with 30 Tex. ADMIN. CODE § 328.63(c);

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- iii. Ensure that hazardous waste determinations are performed for the wastes generated at the Facility, including off-specification pyrolic oil, off-specification Low Grade Carbon Black, spent oil shale and oil sand, spent filters from process equipment, drums of rubber (carbon black and steel residue from the pyrolysis process), and drums of rocks and carbon black (residue from the removal of carbon build-up inside the carbonizer), in accordance with 30 Tex. ADMIN. CODE §§ 335.62 and 335.78(g)(1) and 40 CODE OF FEDERAL REGULATIONS § 262.11(a);
- iv. Notify the TCEQ as an industrial waste generator, in accordance with 30 TEX. ADMIN. CODE § 335.6(c); and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iv.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

Near Bore Resources, Inc. DOCKET NO. 2008-0312-MLM-E Page 5

- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Near Bore Resources, Inc. DOCKET NO. 2008-0312-MLM-E Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	9/10/2008 Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted:
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

1

Name (Printed or typed)
Authorized Representative of

Near Bore Resources, Inc.

DRESIDENT NATURAL RESOURCE
Title RECOVERY JUC.

UEAR BORG RESOURCES INC

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph I of this Agreed Order.